

Coffman Introduces Bill to Protect Reemployment Rights for National Guard

(WASHINGTON) – U.S. Rep. Mike Coffman (R-CO) introduced legislation this week to ensure reemployment protections for National Guardsmen, regardless of whether they are assigned to a homeland security mission or mobilized active duty and deployed overseas to places like Iraq or Afghanistan. Under current law, members of the National Guard who are called up to active duty have full reemployment rights granted by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), while those who are called up to serve somewhere in the United States, as part of a homeland security mission, are not covered. USERRA places a maximum five-year time limit that an employer is required by law to keep a position open for a returning member of the National Guard who has been mobilized to serve on active duty.

“The soldiers and airmen serving in the National Guard must have the same reemployment rights irrespective of where they are ordered to serve,” said Coffman. “We need to recognize that those who are called up for a homeland security mission can face the same hardships and challenges in trying to get their civilian employment back as someone who has been away from their civilian occupation due to an overseas assignment or some other mobilization to active duty.”

Coffman’s National Guard Employment Protection Act would amend USERRA to authorize the Secretary of Defense to include members of the National Guard, who are involuntarily recalled to active duty for homeland security missions, to receive the same USERRA reemployment protections as their counterparts serving overseas. USERRA was designed to provide reemployment rights to returning members of the National Guard and Reserve after they were recalled to active duty under Title 10 of the U.S. Code. The theory behind USERRA is to lessen the challenges imposed on the members of the National Guard and their families by guaranteeing reemployment rights with their civilian employers upon their return from active duty. The recruitment and retention of military personnel for these critical National Guard components of our nation’s armed forces may be extremely low without the reemployment protections given under USERRA. Homeland security missions fall under Title 32 of U.S. Code.

“The service of our men and women of the National Guard ordered to full-time National Guard duty under Title 32 must be protected by the same reemployment rights under the Uniformed

Services Employment Re-Employment rights Act (USERRA) as are afforded our members ordered to active duty under Title 10. The National Guard Association of the United States (NGAUS) strongly supports the 'National Guard Employment Protection Act of 2011'," said retired Major General Gus L. Hargett Jr., President of NGAUS.

Historically, the National Guard has been utilized in one of two categories to define their status when serving on active duty: Title 32 and Title 10. Title 32 is reserved for training and State missions, and Title 10 is for mobilization to Federal active duty. Before 9/11, training and State missions were generally thought of as requiring relatively short periods of duty for civil disturbances, natural disasters, annual unit training, or for professional development course work. However, after the terrorist attacks of September 11, the Guard was tasked with homeland defense and given new missions such as Air Sovereignty Alert, security at airports, at nuclear power plants, and border patrol.

The current USERRA law was written prior to September 11, 2001 and never accounted for a member of the National Guard that would be called up to serve for an extended period of Title 32 federal duty in the United States. The law only assumed that a member of the National Guard would be called to active duty for an extended period of time to serve overseas, so USERRA was written for Guardsmen serving on active duty under Title 10 and was never amended for those called up for federal domestic missions under Title 32.

Coffman's legislation, House Resolution 1811, is supported by the National Guard Association of America (NGAUS) and the Enlisted Association of the National Guard of the United States (EANGUS).

#